

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.622(i),)	MB Docket No. 21-128
Post-Transition Table of DTV Allotments,)	RM-11895
Television Broadcast Stations)	
(Bristol, Virginia))	

REPORT AND ORDER

(Proceeding Terminated)

Adopted: June 15, 2021

Released: June 15, 2021

By the Chief, Video Division, Media Bureau:

1. The Video Division, Media Bureau (Bureau), has before it a Notice of Proposed Rulemaking¹ issued in response to a Petition for Rulemaking filed by Sinclair Media Licensee, LLC (Petitioner), the licensee of WCYB-TV (NBC), channel 5, Bristol, Virginia. The Petitioner has requested the substitution of UHF channel 35 for VHF channel 5 in the DTV Table of Allotments.²

2. The Petitioner filed comments in support of the petition, as required by the Commission's rules,³ reaffirming its commitment to apply for channel 35.⁴ We believe the public interest would be served by substituting channel 35 for channel 5 at Bristol, Virginia. The Petitioner states that the Commission has recognized that VHF channels have certain propagation characteristics which may cause reception issues for some viewers.⁵ In addition, according to the Petitioner, WCYB-TV has received numerous complaints from viewers unable to receive the Station's over-the-air signal, despite being able to receive signals from other stations.⁶ The Petitioner further states that while the proposed channel 35 noise limited contour does not completely encompass the relevant channel 5 noise limited contour,⁷ WCYB-TV is an NBC affiliate and there are six other NBC affiliated stations that serve some portion of

¹*Amendment of Section 73.73.622(i), Post-Transition Table of DTV Allotments, Television Stations (Bristol, Virginia)*, MB Docket No. 21-128, Notice of Proposed Rulemaking, DA 21-397 (rel. Apr. 5, 2021) (*NPRM*).

² As noted in the *NPRM*, on April 13, 2017, the Commission completed the incentive auction and broadcast television spectrum repacking authorized by the Spectrum Act, and the post-incentive auction transition period ended on July 13, 2020. The Bureau will amend the rules to reflect all new full power channel assignments in a revised Table of Allotments, but because the Table has not yet been amended, the Bureau has continued to refer to the Post-Transition Table of DTV Allotments, 47 CFR § 73.622(i) (2018), for the purpose of this proceeding. See *NPRM* at n.2.

³ 47 CFR §§ 1.415, 1.419; see also *Buffalo, Iola, Normangee, and Madisonville, Texas*, MB Docket No. 07-729, Report and Order, 24 FCC Rcd 8192, 8194, para. 9 (Aud. Div. 2009).

⁴ Sinclair Media Licensee, LLC Comments (filed May 17, 2021) (Petitioner Comments).

⁵ *NPRM* at para. 2 and n.3. While the Petitioner contends that the channel substitution would benefit ATSC 3.0 reception in addition to ATSC 1.0 reception, *id.* and Petitioner Comments at 1-2, we do not find the Petitioner's arguments concerning ATSC 3.0 reception to be a controlling factor in our decision, especially given the early stages of deployment and limited availability of consumer devices.

⁶ *NPRM* at para. 2.

⁷ As the Bureau explained in the *NPRM*, it used the technical parameters of WCYB-TV's original post-transition digital channel 5 facility (File No. BPCDT-20080327AFS) in determining any predicted loss which may occur. *NPRM* at n.5.

the loss area.⁸ In aggregate, these six stations serve the entire area of the channel 5 noise limited contour not encompassed by the proposed channel 35 contour.⁹ Thus, no one would lose NBC network service if channel 35 was substituted for channel 5.

3. As proposed, channel 35 can be substituted for channel 5 at Bristol, Virginia, in compliance with the principal community coverage requirements of section 73.625(a) of the Commission's rules (rules),¹⁰ at coordinates 36-26-58.2 N and 82-06-28.7 W. In addition, we find that this channel change meets the technical requirements set forth in sections 73.616 and 73.623 of the rules with the following specifications:¹¹

<u>City and State</u>	<u>DTV Channel</u>	<u>DTV Power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>DTV Service Pop.</u>
Bristol, Virginia	35	1000	755	2,300,798

4. We also conclude that good cause exists to make this channel change effective immediately upon publication in the Federal Register, pursuant to section 553(d)(3) of the Administrative Procedure Act.¹² An expedited effective date is necessary in this case to ensure that WCYB-TV can operate with improved service to its viewers as quickly as possible.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g), (r), and 307(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c)(1), 303(g), (r), and 307(b), and sections 0.61, 0.204(b) and 0.283 of the Commission's rules, 47 CFR §§ 0.61, 0.204(b), and 0.283, **IT IS ORDERED**, That effective immediately upon the date of publication in the Federal Register, the DTV Table of Allotments, section 73.622(i) of the Commission's rules, 47 CFR § 73.622(i), **IS AMENDED**, with respect to the community listed below, to read as follows:

<u>City and State</u>	<u>Channel No.</u>
Bristol, Virginia	35

6. **IT IS FURTHER ORDERED**, That within 30 days of the effective date of this Order, Sinclair Media Licensee, LLC shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel 35 in lieu of channel 5.

7. **IT IS FURTHER ORDERED**, That pursuant to section 801(a)(1)(A) of the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A), the Commission **SHALL SEND** a copy of the Order to Congress and to the Government Accountability Office.

8. **IT IS FURTHER ORDERED**, That should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 21-128 and RM-11895 **SHALL BE TERMINATED** and its docket closed.

⁸ Amended Engineering Statement at 7.

⁹ *Id.*

¹⁰ 47 CFR § 73.625(a).

¹¹ 47 CFR §§ 73.616, 73.623.

¹² 5 U.S.C. § 553(d)(3).

9. For further information concerning the proceeding listed above, contact Joyce L. Bernstein, Video Division, Media Bureau, (202) 418-1647, Joyce.Bernstein@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
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Media Bureau